

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CHRISTIAN MENDEZ,

Plaintiff,

v.

EMORY HEALTHCARE, INC.,

Defendant.

CIVIL ACTION NO.
1:22-cv-01445-MHC-RDC

ORDER

Plaintiff seeks to file this civil complaint without prepayment of fees and costs or security therefor pursuant to 28 U.S.C. § 1915(a). After consideration of the affidavit of indigency attached to the complaint, Plaintiff's application to proceed *in forma pauperis* ("IFP") is hereby **GRANTED** pursuant to Section 1915(a), and Plaintiff shall be allowed to proceed with this action without prepayment of docket costs or United States Marshal Service fees.

In light of the allegations presented by Plaintiff, the Court cannot find that the instant action is entirely frivolous or malicious. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Therefore, this action shall be allowed to proceed as any other civil action as to Plaintiff's claims against each Defendant.

IT IS ORDERED that, pursuant to 28 U.S.C. § 1915A, Plaintiff's action is **ALLOWED TO PROCEED** as any other civil action.

The Clerk is hereby **DIRECTED** to send Plaintiff the USM 285 form, summons, and the initial disclosures form. Plaintiff is **DIRECTED** to complete the USM 285 form, summons, and the initial disclosures form, and to return one of each for each Defendant named in the complaint within **twenty-one (21) days** from the entry date of this Order to the Clerk of Court. Plaintiff is warned that failure to comply in a timely manner could result in the dismissal of this civil action. The Clerk is **DIRECTED** to resubmit this action to the undersigned if Plaintiff fails to comply.

Upon receipt of the forms by the Clerk, the Clerk is **DIRECTED** to prepare a service waiver package for each Defendant. The service waiver package must include, for each Defendant, two (2) Notices of Lawsuit and Request for Waiver of Service of Summons (prepared by the Clerk), two (2) Waiver of Service of Summons forms (prepared by the Clerk), an envelope addressed to the Clerk of Court with adequate first class postage for use by each Defendant for return of the waiver form, one (1) copy of the complaint, one (1) copy of the initial disclosures form, and one (1) copy of this Order. The Clerk shall retain the USM 285 forms(s) and the summons(es).

Upon completion of the service waiver package(s), the Clerk is **DIRECTED** to complete the lower portion of the Notice of Lawsuit and Request for Waiver form and to mail the service waiver package(s) to each Defendant. Defendants have a duty to avoid unnecessary costs of serving the summons. If a Defendant fails to comply

with the request for waiver of service, that Defendant must bear the costs of personal service unless good cause can be shown for failure to return the Waiver of Service form.

In the event a Defendant does not return the Waiver of Service form to the Clerk of Court within **thirty-five (35) days** following the date the service waiver package was mailed, the Clerk is **DIRECTED** to prepare and transmit to the U.S. Marshal's Service a service package for each Defendant who failed to return the waiver form. The service package must include the USM 285 form, the summons, and one (1) copy of the complaint. Upon receipt of the service package(s), the U.S. Marshal's Service is **DIRECTED** to personally serve each Defendant who failed to waive service. The executed waiver form or the completed USM 285 form shall be filed with the Clerk.

Plaintiff is **DIRECTED** to serve upon Defendants or their counsel a copy of every additional pleading or other document which is filed with the Clerk of the Court. Each pleading or other document filed with the Clerk shall include a certificate stating the date on which an accurate copy of that paper was mailed to Defendants or their counsel. This Court shall disregard any submitted papers which have not been properly filed with the Clerk or which do not include a certificate of service.

Plaintiff is also **REQUIRED** to **KEEP** the Court and Defendants advised of his/her current address at all times during the pendency of this action. Plaintiff is admonished that the failure to do so may result in the dismissal of this action.

IT IS SO **ORDERED** on this 15th day of April 2022.

A handwritten signature in blue ink, reading "R. Cannon", is written over a horizontal line.

REGINA D. CANNON
United States Magistrate Judge